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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
Alex TSUI, et al.	:	Confirmation Number: 3011
	:	
Application No.: 10/730,656	:	Group Art Unit: 2163
	:	
Filed: December 8, 2003	:	Examiner: A. Lie
	:	
For: UNIFIED LOGGING SERVICE FOR DISTRIBUTED APPLICATIONS		

**APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed March 29, 2007, wherein Appellants appeal from the Examiner's rejection of claims 1-2, 4-13, 15, 19-20, and 22-25.

**I. REAL PARTY IN INTEREST**

This application is assigned to IBM Corporation by assignment recorded on December 8, 2003, at Reel 014802, Frame 0041.

**II. RELATED APPEALS AND INTERFERENCES**

Appellants are unaware of any related appeals and interferences.

### **III. STATUS OF CLAIMS**

Claims 1-15 and 19-25 are pending in this Application. Of those, claims 1-2, 4-13, 15, 19-20, and 22-25 have been finally rejected in this Application, and claims 3, 14, and 21 have been indicated as being allowable. Claims 16 and 17 have been cancelled, and claim 18 was inadvertently omitted from the originally-filed application. It is from the final rejections of claims 1-2, 4-13, 15, 19-20, and 22-25 that this Appeal is taken.

### **IV. STATUS OF AMENDMENTS**

The claims have not been amended subsequent to the imposition of the Second Office Action dated January 4, 2007 (hereinafter the Second Office Action).

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

Referring to Figure 4 and also to independent claims 1 and 19, a method of providing a unified logging service is disclosed. The method is for use in a network having a plurality of nodes capable of generating event logs, and the unified logging service has a unified log server and repository. In step 304, an event log file of a first log type and structure associated with a sending node is converted into a predefined format (lines 3-8 of paragraph [0052] of Appellants' disclosure). In step 310, the converted event log file is transmitted over the network to the unified log server (lines 12-13 of paragraph [0052]). In step 312, the converted event log file is received by the unified log server (lines 13-14 of paragraph [0052]). In step 316, the log type of the converted log file is determined and the converted log file is routed to a log handler compatible with the log type and the predefined format (lines 16-18 of paragraph [0052]). In step 320, a receiving node compatible with the log type for the converted event log file is

identified, and the converted event log file is forwarded from the log handler to the identified receiving node (lines 18-20 of paragraph [0052]).

Referring to Figure 3 and also to independent claims 9 and 11, a system for providing a unified logging service is disclosed. A sending node 30 includes a first structure, and an event log file 32 having a first log type associated with the sending node 30 (lines 1-8 of paragraph [0044]). A log adapter 36 for the sending node 30 converts the event log file 32 from the first structure to a predefined format (lines 6-7 of paragraph [0046]. The converted event log file is transmitted across the network and received at unified logging server 50 [lines 1-2 of paragraph [0046]). A log processor 54 determines the log type of the converted event log file and a log handler 58, 60, 62 suitable for the log type to which the converted event log file is to be forwarded (lines 1-6 of paragraph [0047]). A receiving node 38, 48 for the converted event log file is identified and the converted event log file is forwarded to the identified receiving node 38, 48 (lines 1-5 of paragraph [0050]).

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1, 4, 9-11, 15, 19, and 22 were rejected under 35 U.S.C. § 102 for anticipation based upon Bhat, U.S. Patent Publication No. 2003/0055808;

2. Claims 2, 12, and 20 were rejected under 35 U.S.C. § 103 for obviousness based upon Bhat in view of Sullivan et al., U.S. Patent Publication No. 2004/0172284 (hereinafter Sullivan);

3. Claims 5 and 23 were rejected under 35 U.S.C. § 103 for obviousness based upon Bhat in view of Covert et al., U.S. Patent No. 5,982,994 (hereinafter Covert);

4. Claims 6-8 and 24-25 were rejected under 35 U.S.C. § 103 for obviousness based upon Bhat in view of Covert and Falls et al., U.S. Patent No. 6,247,149; and

5. Claim 13 was rejected under 35 U.S.C. § 103 for obviousness based upon Bhat in view of Falls.

## **VII. ARGUMENT**

### **THE REJECTION OF CLAIMS 1, 4, 9-11, 15, 19, AND 22 UNDER 35 U.S.C. § 102 FOR ANTICIPATION BASED UPON BHAT**

For convenience of the Honorable Board in addressing the rejections, and claims 4, 9-11, 15, 19, and 22 stand or fall together with independent claim 1.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference.<sup>1</sup> As part of this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the meaning of the elements in light of the specification and prosecution history, and (c) identify corresponding elements disclosed in the allegedly anticipating reference.<sup>2</sup> This burden has not been met. Moreover, the Examiner has failed to clearly designate the teachings in Bhat being relied upon the statement of the rejection. In this regard, the Examiner's rejection under 35 U.S.C. § 102 also fails to comply with 37 C.F.R. § 1.104(c).<sup>3</sup>

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<sup>1</sup> *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

<sup>2</sup> *Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, *supra*.

<sup>3</sup> 37 C.F.R. § 1.104(c) provides:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

Claim 1

Despite Appellants arguing in the First Amendment dated October 12, 2006 (hereinafter the First Amendment), that the Examiner has failed to clearly identify the features in Bhat being relied upon in the rejection, the Examiner's statement of the rejection with regard to independent claim 1 on pages 2 and 3 of the Second Office Action is substantially identical to the Examiner's statement of the rejection with regard to independent claim 1 on page 3 of the First Office Action. Thus, the Examiner has still failed to specifically identify the teachings in Bhat being relied upon to allegedly disclose the claimed invention.

On pages 12 and 13 of the First Amendment, Appellants presented the following arguments. With regard to the step of "converting an event log file of a first log type and structure associated with a sending node into a predefined format," as recited in claim 1, the Examiner referred to paragraphs [0055]-[0057] of Bhat. However, upon review, these paragraphs refer to the use of property files by CIMON 142. Regarding the claimed step of "transmitting the converted event log file over the network to the unified log server," the Examiner referred to steps 360 and 370 found in Figure 3. Paragraph [0072] of Bhat describes both step 360 and step 370, and these steps refer to actions of the logging service 141, which reads the property file from the CIMOM 142 (i.e., step 360) and coverts information within the property file into an implementation object (i.e., step 370).

Referring to Figure 1 of Bhat, it is readily apparent that both the logging service 141 and the CIMON 142 are found within the server 140. However, on page 3 of the Office Action, the Examiner identified the server 140 described in Figure 1 of Bhat as identically disclosing the

claimed "unified log server." The Examiner also asserted that the server 140 identically discloses the claimed "receiving the converted event log file by the unified log server," as recited in claim 1.

Appellants' position is that the server 140 (i.e., the asserted unified log server) cannot receive the converted event log file, since both the CIMOM 142 and the logging service 141, which were asserted by the Examiner as creating and transmitting the converted event log file, are already within the server 140.

The Examiner's response to this argument is found in the paragraph spanning pages 9 and 10 of the Second Office Action and reproduced below:

With respect to the applicant's assertion on page 13, first paragraph, arguing that the examiner failed to properly identify components in the prior art that could read on the limitations of the independent claim 1, in particular "receiving the converted event log file by the unified log server". The examiner still maintains the previous 35 U.S.C 102 rejection is proper because server (140) has many components, for instance object manager, Jogging service, plurality of repositories, which are interconnected (i.e. network, interconnection between elements). Furthermore the converted event log file is transferred from the logging service to the object manager and then to the appropriate provider. Even though those elements in figure 1 of the prior art are shown as being a part of the same server, it still reads on the limitation "receiving the converted event log file by the unified log server" because object manager is also considered as part of the unified log server. Furthermore, It is worth noting that the applicant failed to identify where exactly the file is converted and then the applicant also did not clearly identify source and destination of the converted log file. Stating that the file is transmitted via network does not clearly describe the source and destination relationship. Furthermore the word "network" is a very broad term and the examiner ought to give it the broadest reasonable interpretation. (emphasis added)

In restating Appellants' argument, Appellants note that claim 1 recites the following:

- converting an event log file of a first log type and structure associated with a sending node into a predefined format;
- transmitting the converted event log file over the network to the unified log server.

Based upon this claim language, the conversion of the event log file must, at some time, be located outside the unified log server and then sent to the unified log server. Otherwise, the claimed transmitting step would not be performed. The Examiner, however, has asserted that server 140 of Bhat identically discloses the claimed unified log server and that the converting step is described in paragraphs [0055]-[0057], which refers to CIMOM 142. As noted above, the teachings relied upon by the Examiner also refer to logging server 141. However, referring to Fig. 1, both the CINOM 142 and the logging server 141 of Bhat are already within the server 140. Thus, Bhat fails to teach or suggest the claimed "transmitting the converted event log file over the network to the unified log server."

Referring to the underlined portion of the Examiner's response to this argument, Appellants note that this assertion by the Examiner is conclusory and without factual support. *Assuming arguendo* that the object manager (i.e., CINOM 142) receives the converted event log file, this is not comparable to the server 140 receiving the converted event log file. By analogy, if an Examiner at the patent office was to receive a file from the Examiner's supervisor, given the plain meaning of this phrase, one would not identify this act as being comparable to "the Patent Office receiving the file" since the file was already within the Patent Office.

The Examiner then asserts that "the applicant also did not clearly identify source and destination of the converted log file." This statement is at least half incorrect. As noted above the converted event log file is transmitted "over the network to the unified log server" (emphasis added). Thus, claim 1 clearly identifies a destination of the converted event log file.



The Examiner further asserts that "the word 'network' is a very broad term and the examiner ought to give it the broadest reasonable interpretation." Notwithstanding whether or not the term "network" is to be given a board interpretation, the Examiner has neither (i) set forth an interpretation of the term "network," which supports the Examiner's analysis nor (ii) explained why such an interpretation would be reasonable.

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In the first full paragraph on page 13 of the First Amendment, Appellants further argued that additional fatal errors exist within the Examiner's statement of the rejection. For example, the Examiner referred to paragraphs [0055]-[0057] of Bhat to teach the claimed "converting an event log file of a first log type and structure associated with a sending node into a predefined format." Upon reviewing these passages, Appellants note the teaching of a "property file." However, the Examiner has neither factually established nor set forth a reasoned explanation as to why one having ordinary skill in the art would construe the term property file as teaching the claimed event log file.

The Examiner's response to this argument is found in the first full paragraph on page 10 of the Second Office Action and reproduced below:

With the respect to the applicant's assertion on page 13, second paragraph arguing that the examiner failed to identify "converting an event log file of a first log type and structure associated with a sending node into a predefined format", the examiner disagrees. In paragraph 54, Bhat teaches that the event report is created initiated by certain transaction or event, and along with that as taught in paragraph 55, the property file can be modified to incorporate appropriate file storage devices. This in fact, allows a log file to be stored in the appropriate repository, therefore it is considered to be directly related to the log file. (emphasis added)

A rejection for anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention. The Examiner, however, has not

asserted that a log file is, in fact, identically disclosed in paragraphs [0055]-[0057] of Bhat, as originally asserted. Instead, the Examiner only asserts that teachings "related to the log file" are found in these cited paragraphs. Being "related to" is not comparable to identically disclosing. Appellants, therefore, maintain their previous position that the Examiner has failed to establish that Bhat identically discloses all of the claimed limitations.

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In the paragraph spanning pages 13 and 14 of the First Amendment, Appellants further noted that with regard to the claimed "determining the log type of the converted log file and routing the converted log file to a log handler compatible with the log type and the predefined format," the Examiner cited lines 12-15 of paragraph [0055]. For ease of reference, this passage is reproduced below:

For example, if server 140 is initially configured with only file storage devices for logging operations, the system administrator may edit the property file to define a DataStoreImpl property specific to file storage type devices.

This cited passage merely refers to a system administrator being able to edit the property file to define a property specific to file storage type devices. Appellants, however, cannot even imagine how one having ordinary skill in the art could conceivably recognize this passage as identically disclosing the above-identified claim limitation.

The Examiner's response to this argument is found in the second full paragraph on page 10 of the Second Office Action and reproduced below:

With respect to the applicant's argument also on page 13, third paragraph alleging that the cited prior art does not teach "determining the log type of the converted log file and routing the converted log file to a log handler compatible with the log type and the predefined format", the examiner disagrees. In paragraph 54, Bhat clearly teaches storing the log record in particular log file at the particular storage device, therefore prior to routing the log file, the type of the log record has to be determined.

Even *assuming arguendo* that all of the Examiner's statements above with regard to the teachings found in paragraph [0054] are correct, the Examiner has still failed to establish that Bhat identically discloses all of the above-identified limitations. At best, the Examiner has asserted that Bhat teaches "determining the log type of the converted log file," as claimed. However, the Examiner has failed to set forth any explanation as to where Bhat identically discloses the claimed "routing the converted log file to a log handler compatible with the log type and the predefined format." Thus, Bhat further fails to identically disclose the claim invention within the meaning of 35 U.S.C. § 102

**THE REJECTION OF CLAIMS 2, 12, AND 20 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS  
BASED UPON BHAT IN VIEW OF SULLIVAN**

For convenience of the Honorable Board in addressing the rejections, and claim 2 stands or falls together with independent claim 1, claim 12 stands or falls together with independent claim 11, and claim 20 stands or falls together with independent claim 19.

Claims 2, 12, and 20 depend ultimately from independent claims 1, 11, and 19, and Appellants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1, 11, and 19 under 35 U.S.C. § 102 for anticipation based upon Bhat. The secondary reference to Sullivan does not cure the argued deficiencies of Bhat. Accordingly, even if one having ordinary skill in the art were motivated to modify Bhat in view of Covert, the proposed combination of references would not yield the claimed invention. Appellants, therefore, respectfully submit that the imposed rejection of claims 2, 12, and 20 under 35 U.S.C. § 103 for obviousness based upon Bhat in view of Sullivan is not viable.

**THE REJECTION OF CLAIMS 5 AND 23 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON BHAT IN VIEW OF COVERT**

For convenience of the Honorable Board in addressing the rejections, and claim 5 stands or falls together with independent claim 1, and claim 23 stands or falls together with independent claim 19.

Claims 5 and 23 depend ultimately from independent claims 1 and 19, and Appellants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1, and 19 under 35 U.S.C. § 102 for anticipation based upon Bhat. The secondary reference to Covert does not cure the argued deficiencies of Bhat. Accordingly, even if one having ordinary skill in the art were motivated to modify Bhat in view of Covert, the proposed combination of references would not yield the claimed invention. Appellants, therefore, respectfully submit that the imposed rejection of claims 5 and 23 under 35 U.S.C. § 103 for obviousness based upon Bhat in view of Covert is not viable.

**THE REJECTION OF CLAIMS 6-8 AND 24-25 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON BHAT IN VIEW OF COVERT AND FALLS**

For convenience of the Honorable Board in addressing the rejections, and claims 6-8 stand or fall together with independent claim 1, and claims 24-25 stand or fall together with independent claim 19.

Claims 6-8 and 24-25 depend ultimately from independent claims 1 and 19, and Appellants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1, and 19 under 35 U.S.C. § 102 for anticipation based upon Bhat. The secondary references to Covert and Falls do not cure the argued deficiencies of Bhat. Accordingly, even if one having ordinary skill in the art were motivated to modify Bhat in view of Covert and Falls, the proposed combination of references would not yield the claimed invention. Appellants, therefore, respectfully submit that the imposed rejection of claims 6-8 and 24-25 under 35 U.S.C. § 103 for obviousness based upon Bhat in view of Covert and Falls is not viable.

**THE REJECTION OF CLAIM 13 UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON BHAT IN VIEW OF FALLS**

For convenience of the Honorable Board in addressing the rejections, and claim 13 stands or falls together with independent claim 11.

Claim 13 depends ultimately from independent claim 11, and Appellants incorporate herein the arguments previously advanced in traversing the imposed rejection of claim 11 under 35 U.S.C. § 102 for anticipation based upon Bhat. The secondary reference to Falls does not cure the argued deficiencies of Bhat. Accordingly, even if one having ordinary skill in the art were motivated to modify Bhat in view of Falls, the proposed combination of references would not yield the claimed invention. Appellants, therefore, respectfully submit that the imposed rejection of claim 13 under 35 U.S.C. § 103 for obviousness based upon Bhat in view of Fall is not viable.

Conclusion

Based upon the foregoing, Appellants respectfully submit that the Examiner's rejections under 35 U.S.C. §§ 102, 103 based upon the applied prior art is not viable. Appellants, therefore, respectfully solicit the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. §§ 102, 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: March 29, 2007

Respectfully submitted,

/Scott D. Paul/

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## **VIII. CLAIMS APPENDIX**

1. A method of providing a unified logging service, for use in a network having a plurality of nodes capable of generating event logs, wherein said unified logging service having a unified log server and repository, comprising the steps of:

converting an event log file of a first log type and structure associated with a sending node into a predefined format;

transmitting the converted event log file over the network to the unified log server;

receiving the converted event log file by the unified log server;

determining the log type of the converted log file and routing the converted log file to a log handler compatible with the log type and the predefined format;

identifying a receiving node compatible with the log type for the converted event log file, and forwarding the converted event log file from the log handler to the identified receiving node.

2. The method of claim 1, further comprising the step of:

acknowledging receipt of the converted event log file by the identified receiving node to the sending node.

4. The method of claim 1, further comprising the step of:

storing the converted log file in the repository.

5. The method of claim 1, wherein the predefined format comprises a unified logging format including a header and a body.

6. The method of claim 5 wherein the header contains information comprising:

a server identifier;

a log system identifier;

a log type identifier; and

a log create timestamp.

7. The method of claim 5 wherein the body contains transaction information as defined by the unified logging service, comprising:

a message portion, wherein the message portion is further defined by fields specific to the log type; and

a time stamp portion.

8. A computer readable storage medium tangibly embodying programmed instructions for performing the method of any of claims 1 to 7.

9. An apparatus for providing a unified logging service, comprising:

a unified logging server;

means for receiving an event log file at the unified logging server;

a log adapter for converting the event log file from a first structure to a predefined format;

means for determining a log type of the converted event log file and a log handler suitable for the log type;



means for forwarding the converted event log file to the log handler;

means for identifying a receiving node;

means for forwarding the converted event log file to the identified receiving node.

10. The apparatus of claim 9 further comprising:

a repository; and

means for storing the converted log file in the repository.

11. A system for providing a unified logging service comprising:

a sending node having a first structure;

an event log file having a first log type associated with the sending node;

a log adapter for the sending node for converting the event log file from the first structure to a predefined format;

means for transmitting the converted event log file across the network to a unified logging server;

means for receiving the converted event log file at the unified logging server;

means for determining the log type of the converted event log file and a log handler suitable for the log type;

means for forwarding the converted event log file to the log handler;

means for identifying a receiving node for the converted event log file;

means for forwarding the converted event log file to the identified receiving node.

12. The system of claim 11 further comprising:

means for acknowledging receipt of the converted event log file by the identified receiving node to the sending node.

13. The system of claim 11 further comprising:

a log adapter for the receiving node for converting the predefined format to an event log file of the first structure.

15. The system of claim 11 further comprising means for storing the converted log file in the repository.

19. An article of manufacture comprising a processor useable medium having a processor readable program embodied in said medium, wherein the processor readable program when executed on or more processors causes the processors to:

convert an event log file of a first log type and structure associated with a sending node into a predefined format;

transmit the converted event log file onto a network to a unified log server;

receive the converted event log file by the unified log server;

determine the log type of the converted log file and rout the converted log file to a log handler compatible with the determined log type and the predefined format;

identify a receiving node compatible with the log type for the converted event log file, and forward the converted event log file from the log handler to the identified receiving node.

20. The article of manufacture of claim 19, wherein the processor readable program causes one or more processors to:

acknowledge receipt of the converted event log file by the identified receiving node.

22. The article of manufacture of claim 19, wherein the processor readable program causes one or more processors to:

store the converted log file in the repository.

23. The article of manufacture of claim 19, wherein the predefined format comprises a unified logging format including a header and a body.

24. The article of manufacture of claim 23, wherein the header contains information comprising:

a server identifier;

a log system identifier;

a log type identifier; and

a log create timestamp.

25. The article of manufacture of claim 23, wherein the body contains transaction information as defined by the unified logging service, comprising:

a message portion, wherein the message portion is further defined by fields specific to the log type; and

a time stamp portion.

**IX. EVIDENCE APPENDIX**

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellants in this Appeal, and thus no evidence is attached hereto.

**X. RELATED PROCEEDINGS APPENDIX**

Since Appellants are unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.